

CFLA

December 7, 2016

Federal Election Commission
Office of Complaints Examination
and Legal Administration
Attn: Hon. Mary Beth deBeau
999 E Street, NW
Washington, DC 20436

Re: *MUR 7156 – Response of Respondents Hon. William Hurd, Hurd for Congress
and Bradley Crate, Treasurer*

SENT VIA EMAIL AND U.S. MAIL

Dear Commissioners and Staff:

The Honorable William Hurd, Hurd for Congress, and Bradley Crate, Treasurer of Hurd for Congress, hereby respond to the Complaint filed by Homar G. Hernandez in Matter Under Review 7156. For the reasons set forth herein, the Commission should find no reason to believe that Respondents have failed to comply with the Federal Election Campaign Act or Commission regulations, and accordingly should dismiss the Complaint.

The Complaint alleges that a Hurd for Congress public communication, entitled "Battle Tested" (the "Advertisement"), ran afoul of legal disclaimer requirements in two material respects. The evidence for these allegations is an apparently edited copy of the Advertisement, whose quality is poor, with the poorness of the quality of such copy cited as evidence of the Advertisement's deficiencies. These allegations are false.

First, the Complaint alleges that the Advertisement "appears to contain a written disclaimer but it is not clearly readable so it is unclear who is actually sponsoring the advertisement."¹ Second, the Complaint alleges that although the Advertisement "contains the following audio disclaimer: 'I am Will Hurd and I approve this message,'"² the disclaimer is inadequate because "[t]his audio statement is presented with a black screen as the visual instead of with an unobscured, fullscreen (sic) view of Rep. Hurd or a photograph or other similar image of Rep. Hurd on the screen."³

¹ Complaint, page 2, paragraph 1.

² Complaint, page 2, paragraph 1.

³ Complaint, page 4, paragraph 3.

Rather than examining the grainy, incomplete version of the Advertisement offered by the Complainant, the Commission should examine the version of the Advertisement that *actually ran on television*.⁴ As the Commission plainly can see, a clear and conspicuous, and clearly readable, visual disclaimer appears from the twenty-five (25) second mark through the thirty (30) second mark, or end, of the Advertisement, prominently centered near the bottom of the screen, reading as follows:

PAID FOR BY HURD FOR CONGRESS. APPROVED BY WILL HURD.

A screenshot of the disclaimer is attached as Exhibit 1 hereto. As required by Commission regulations, the disclaimer is clear and conspicuous and gives the observer adequate notice of the sponsor of the Advertisement and its authorization by the candidate. Even the Complainant, viewing a conveniently selected version of the Advertisement with poor video quality, had adequate notice of the sponsor/authorizer of the Advertisement, as shown by his evident ease and certainty in directing his complaint against Respondents. The disclaimer complies with the Commission's regulations promulgated at 11 §§ C.F.R. 110.11(b)(1) and (c)(3)(iii).

Next, contrary to the Complaint's second allegation, the Advertisement's voiceover disclaimer does not appear over a black screen. Rather, it appears over footage of Congressman Hurd shaking hands with constituents, as can be seen in an *accurate* portrayal of the Advertisement and as shown in the attached Exhibit 2. As required by Commission regulation, Congressman Hurd stated in the Advertisement that he approved it – in this case, so stating “[t]hrough a voice-over by himself . . . accompanied by a clearly identifiable photographic or similar image of the candidate.” 11 C.F.R. § 110.11(c)(3)(ii). The Advertisement complies with this Commission regulation as well.

Whether the Complainant knowingly made to the Commission false statements under oath, or merely swore out the Complaint with reckless disregard for the truth, Respondents do not know. In any event, the Complaint is based wholly and exclusively on allegations that are readily ascertainable to be untrue. The Commission should dismiss the Complaint and take no further action against Respondents.

Sincerely,



Michael G. Adams
Counsel for Respondents

⁴ A full copy of the Advertisement can be viewed at <http://admo.advertisinganalyticsllc.com/tv&/viewer/13c19506-0bfc-4ec1-9f4e-4a1d582c329f>.

EXHIBIT 1

Disclaimer appearing during the last five (5) seconds of the Advertisement



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EXHIBIT 2

**Background shot appearing during Congressman's Hurd's voiceover, stating
"I'm Will Hurd and I approved this message."**



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